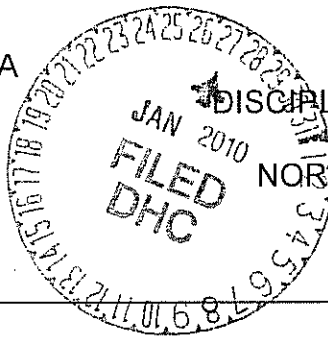


NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
10 DHC 12

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THE NORTH CAROLINA STATE BAR, )  
Plaintiff )

v. )

CABELL J. REGAN, Attorney, )  
Defendant )

COMPLAINT

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Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar (hereinafter "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Cabell J. Regan (hereinafter "Regan" or "Defendant"), was admitted to the North Carolina State Bar on August 19, 1979 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

Upon information and belief, the State Bar alleges:

3. During the times relevant herein, Defendant actively engaged in the practice of law in the State of North Carolina and maintained a law office in Pittsboro, Chatham County, North Carolina.

#### First Claim for Relief

4. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 3 above as if set out in full herein.

5. Between July 2004 and February 2008 Defendant maintained a client trust account with First Citizens Bank, account number ending in the digits 0954 (hereinafter the "First Citizens trust account").

6. Between June 2007 and July 2008 Defendant maintained a client trust account with Sun Trust Bank, account ending in the digits 3528 (hereinafter the "Sun Trust trust account").

7. Between July 2008 and May 2009 Defendant maintained a client trust account with Capital Bank, account ending in the digits 0114 (hereinafter the "Capital Bank trust account"). The Capital Bank trust account remained active until an Order of Preliminary Injunction was entered on May 14, 2009.

8. Defendant used the First Citizens trust account, the Sun Trust trust account and the Capital Bank trust account as general trust accounts in which Defendant deposited and disbursed client funds.

9. Defendant did not direct First Citizens Bank and Sun Trust Bank to notify the North Carolina State Bar when items drawn on the respective accounts are presented for payment against insufficient funds.

10. From time to time between July 2004 and May 2009 Defendant deposited various funds, totaling in excess of \$200,000.00, into the First Citizens trust account and the Sun Trust trust account. The funds so deposited belonged to or were for the benefit of Defendant, Defendant's family members or various businesses maintained by Defendant and were not fiduciary funds or funds owned by or for the benefit of clients.

11. Between February 9, 2005 to December 14, 2005, Defendant wrote multiple checks from the First Citizen's trust account made payable to cash.

12. On December 5, 2005 Defendant electronically transferred the sum of \$500.00 from the First Citizens trust account into another First Citizens account ending in digits 0962 in the name of Defendant.

13. On December 5, 2007 Defendant electronically transferred the sums of \$1.00, \$1.00 and \$2,300.39 from the Sun Trust trust account into another Sun Trust account ending in digits 3510 in the name of Defendant.

14. The electronic transfers identified in the two immediately preceding paragraphs did not identify against which client or other balance the funds were drawn.

15. On September 7, 2006 Defendant electronically transferred the sum of \$500.00 into the First Citizens trust account from another First Citizens account ending in digits 0866 in the name of Defendant.

16. On September 18, 2006 Defendant electronically transferred the sum of \$100.00 into the First Citizens trust account from another First Citizens account ending in digits 0866 in the name of Defendant.

17. On May 23, 2008 Defendant electronically transferred the sum of \$2,000.00 into the Sun Trust trust account from another Sun Trust account ending in digits 3510 in the name of Defendant.

18. The electronic transfers identified in the three immediately preceding paragraphs did not identify the name of the person to whom the funds belonged.

19. On February 16, 2006 check number 4224 written by Defendant on the First Citizens trust account in the amount of \$990.00 payable to the benefit of Defendant's client D. Davis was paid by First Citizens Bank.

20. At the time check number 4224 was paid by First Citizens Bank on February 16, 2006, no funds were on deposit in the First Citizens trust account for the benefit of Davis.

21. On February 21, 2006 Defendant caused to be deposited into the First Citizens trust account funds in the amount of \$990.00 that were not attributed as belonging to any person or entity.

22. On November 17, 2006 check number 4341 in the amount of \$95.00 and on November 22, 2006 check number 4342 in the amount of \$79.04 written by Defendant on the First Citizens trust account payable to the benefit of Defendant's client M. Bray were paid by First Citizens Bank.

23. At the time check numbers 4341 and 4342 were paid by First Citizens Bank on November 17 and November 22, 2006, or at any time thereafter, no funds were on deposit in the First Citizens trust account for the benefit of Bray.

24. On December 12, 2005 check number 4159 written by Defendant on the First Citizens trust account in the amount of \$225.00 payable to Defendant relating to Defendant's client A. Mills was paid by First Citizens Bank.

25. At the time check number 4159 was paid by First Citizens Bank on December 12, 2005, no funds were on deposit in the First Citizens trust account for the benefit of A. Mills.

26. On December 22, 2005 Defendant caused to be deposited into the First Citizens trust account funds in the amount of \$225.00 for the benefit of Defendant's client A. Mills.

27. On October 11, 2005 check number 4139 written by Defendant on the First Citizens trust account in the amount of \$110.00 payable to the Clerk of Court relating to Defendant's client J. Mills was paid by First Citizens Bank.

28. At the time check number 4139 was paid by First Citizens Bank on October 11, 2005, no funds were on deposit in the First Citizens trust account for the benefit of J. Mills.

29. On October 24, 2005 Defendant caused to be deposited into the First Citizens trust account funds in the amount of \$110.00 for the benefit of Defendant's client J. Mills.

30. As of August 11, 2006 Defendant disbursed from the First Citizens trust account \$1,465.89 in excess of the amount of funds deposited in that account for the benefit of Defendant's client Master Remodelers.

31. On November 7, 2006 Defendant caused to be deposited into the First Citizens trust account funds in the amount of \$1,465.89 for the benefit of Defendant's client Master Remodelers.

32. As of December 5, 2006 Defendant disbursed from the First Citizens trust account \$2,830.00 in excess of the amount of funds deposited in that account for the benefit of Defendant's client L. Hill.

33. By disbursing funds for clients from the First Citizens trust account without first depositing funds on behalf of those clients, or in excess of the funds deposited into the account for those clients, Defendant used entrusted funds held in a fiduciary capacity for other clients for purposes that were not intended by those other clients.

34. On January 23, 2008 check number 1081 written by Defendant on the Sun Trust trust account in the amount of \$11.00 payable to North Carolina Division of Motor Vehicles relating to Defendant's client D. Delgado was paid by Sun Trust Bank.

35. At the time check number 1081 was paid by Sun Trust Bank on January 23, 2008, no funds were on deposit in the Sun Trust trust account for the benefit of D. Delgado.

36. As of December 21, 2008 Defendant disbursed from the Sun Trust trust account \$19,004.51 in excess of the amount of funds deposited in that account for the benefit of Defendant's client G. Granger.

37. On October 19, 2007 check number 1027 written by Defendant on the Sun Trust trust account in the amount of \$144.00 payable to Clerk of Court relating to Defendant's client J. Hinkle was paid by Sun Trust Bank.

38. At the time check number 1027 was paid by Sun Trust Bank on October 19, 2007, no funds were on deposit in the Sun Trust trust account for the benefit of J. Hinkle.

39 On October 25, 2007 Defendant caused to be deposited into the Sun Trust trust account funds in the amount of \$144.00 for the benefit of Defendant's client J. Hinkle.

40 By disbursing funds for clients from the Sun Trust trust account without first depositing funds on behalf of those clients, or in excess of the funds deposited into the account for those clients, Defendant used entrusted funds held in a fiduciary capacity for other clients for purposes that were not intended by those other clients.

41 Defendant did not reconcile the trust accounts identified above at least quarterly.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of the actions as follows:

a. by failing to direct First Citizens Bank and Sun Trust Bank to notify the North Carolina State Bar when items drawn on the accounts are presented for payment against insufficient funds, Defendant violated Rule 1.15-2(k);

b. by depositing into the First Citizens and Sun Trust trust accounts funds belonging to or for the benefit of Defendant, Defendant's family members and/or Defendant's businesses, Defendant failed to maintain entrusted property separate from the property of the lawyer in violation of Rule 1.15-2(a);

c. by writing checks against funds in the First Citizens trust account made payable to cash, Defendant violated Rule 1.15-2(i);

d. by making electronic transfers from the First Citizens and Sun Trust trust accounts to an account in Defendant's name that did not identify for whom the funds were transferred, Defendant violated Rule 1.15-2(h) and 1.15-3(b)(3);

e. by making electronic transfers into the First Citizens and Sun Trust trust accounts without identifying the name of the person to whom the funds belonged, Defendant violated Rule and 1.15-3(b)(1);

f. by disbursing money on behalf of clients without depositing funds on behalf of those clients or in excess of the amount of funds deposited for those clients in the First Citizens and Sun Trust trust accounts, Defendant used or pledged entrusted property of other clients for the benefit of someone other than the legal or beneficial owner of that property in violation of Rule 1.15-2(a), (j), and/or (m); and

g. by failing to reconcile his trust accounts at least quarterly, Defendant failed to total and reconcile those accounts with the current bank balance each quarter in violation of Rule 1.15-3(c).

#### Second Claim for Relief

42 Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 3 above as if set out in full herein.

43 Defendant unlawfully and willfully failed to timely file state individual income tax returns for tax years 2002, 2003, 2004, 2005, and 2006 as required by N.C.G.S. 105-152 and 105-157.

44 On August 7, 2008, in Wake County District Court Defendant was found guilty of five counts of Willful Failure to File a North Carolina Income Tax Return, a misdemeanor under North Carolina General Statute 105-236(9).

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of the actions as follows:

a. by unlawfully and willfully failing to file state income taxes when those taxes were due, Defendant committed criminal acts that reflect adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

In addition, Defendant's conviction in state court of Willful Failure to File Federal Income Tax Returns constitutes misconduct and grounds for discipline in that such convictions are criminal offenses showing professional unfitness pursuant to N.C.G.S. §84-28 (b)(1) and 27 N.C.A.C. 1B §.0115.

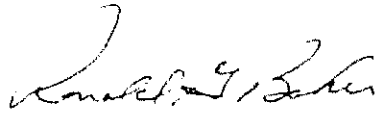
WHEREFORE, the State Bar prays that

1. Disciplinary action be taken against Defendant in accordance with N.C.G.S. §84-28 (c) and 27 N.C.A.C. 1B §.0114 as the evidence on hearing may warrant,

2. Defendant be taxed with the costs permitted by law in connection with this proceeding, and

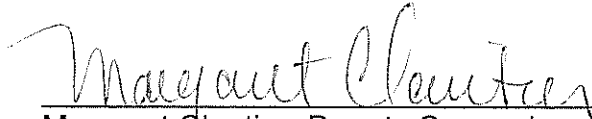
3. For such other and further relief as is appropriate.

This the 27<sup>th</sup> day of January, 2010.



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Ronald G. Baker, Sr., Chair  
Grievance Committee



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Margaret Cloutier, Deputy Counsel  
Attorney for Plaintiff  
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